



State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-5171



February 26, 2004

**LETTER OF DEFICIENCY #WSEB #04-020**  
Certified Mail #7099 3400 0003 0691 0393

Sue Benuck  
Johnson Creek Homeowners Association  
P.O. Box 58  
Durham, NH 03824

Subject: PWS Durham - Public Water System: Johnson Creek (EPA #0692010)

Dear Ms. Benuck

The records of the NH Department of Environmental Services (DES) show that Johnson Creek water system is classified as a public water system (PWS), as defined by RSA 485:1-a. A PWS is defined as any water system supplying 15 or more services, or 25 or more people for 60 or more days per year. As such, the water system owner is required to submit chemical samples according to the system's established sampling schedule to the State laboratory or a State-certified laboratory in compliance with NH Administrative Rule Env-Ws 326. Pursuant to Env-Ws 351, the failure to submit a chemical sample requires that public notice of such failure be given to all consumers.

DES records show that the subject water system failed to submit the following chemical sample results for the following monitoring period (calendar quarter).

**Quarter 3 2003 – Nitrate**

As a result of the failure to submit the above-described sample, a Notice of Violation (NOV), dated **November 20, 2003**, was sent to you (copy enclosed). The NOV requested that you immediately submit the above-described sample as a make-up sample. To date, DES has not received the make-up sample result, thus placing the water system in violation of Env-Ws 326. DES believes the monitoring/reporting deficiencies can be addressed by taking the following actions:

- By March 12, 2004**, submit the Nitrate sample as a "make-up sample" to the State laboratory or a State-certified laboratory. Please use the enclosed analysis result form when submitting the sample to your laboratory.
2. **By March 12, 2004**, provide proof of public notice to DES for the failure to submit Quarter 3 2003 Nitrate sample, as specified on the enclosed form.

In the event compliance is not achieved within this period, DES may take further enforcement action. These actions include issuing an order requiring the deficiencies to be corrected, initiating an administrative fine proceeding, and/or referring the matter to the NH Department of Justice for imposition of appropriate penalties.

**Please note that submission of the 2003 nitrate "make-up sample" does NOT relieve you of your obligation to submit a 2004 nitrate sample during the Third Quarter (July to September).**

The proof of public notice as requested above should be addressed as follows or faxed to (603) 271-5171:

Betsey McNaughten  
Department of Environmental Services  
Water Supply Engineering Bureau  
29 Hazen Drive, PO Box 95  
Concord, NH 03302-0095

If you have any questions regarding this letter, please contact Betsey McNaughten at (603) 271-0659 or by email at [emcnaughten@des.state.nh.us](mailto:emcnaughten@des.state.nh.us).

Sincerely,

**COPY**

Rene Pelletier, P.G., Manager  
Land Resource Programs

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Encls: Notice of Violation, dated November 20, 2003  
Analysis Request Form  
Public Notice Form

cc: Gretchen Rule, DES Legal Unit (w/o encl.)  
Thomas Johnson, Town Durham Health Officer (w/o encl.)  
Stanley Oliver, Primary Operator (w/encl.)  
EPA, Region 1 (w/o encl.)  
File